

Serial Number: 09/941,832

Interview, Applicants are hereby providing reasons why claims 1-32 and 34-57 should not have been rejected based on Poplawski *et al.* These reasons were discussed with Examiner Nasri during the March 18, 2003 Examiner Interview.

Claims 1-4, 7 and 29-32 stand rejected under U.S.C. § 102(e) as being anticipated by Poplawski, *et al.*. This rejection is respectfully traversed with respect to the claims as currently presented for the reasons discussed during the March 18, 2003 Examiner Interview.

With respect to claim 1, claim 1 claims a multi-optical receptacle assembly comprising at least two optical receptacles wherein there is a ***shared wall*** between adjacent optical receptacles (emphasis added). In contrast, as discussed with Examiner Nasri during the March 18, 2003 Examiner Interview, Poplawski, *et al.* does not describe or show a shared wall between two optical receptacles. Contrary to what is stated in the Office Action at page 2, in Poplawski *et al.*, there is not a shared wall between transceivers 532 and 534, because there is space between transceivers 532 and 534 as mounted in the mounting panel. For instance, there is a piece of the mounting panel that separates transceivers 532 and 534. In contrast, the “shared wall” claimed by claim 1 is either an abutting shared wall, such as the abutting shared wall 442 of FIG. 4 that consists of two abutting walls 444 and 446 or a unitary shared wall, such as the shared wall 542 of Fig. 5. (See application, p. 7 for a definition of the term “shared wall”). Therefore, Poplawski, *et al.* does not teach or suggest using a shared wall between adjacent optical receptacles as claimed by claim 1, and, therefore, claim 1 is patentable over Poplawski, *et al.*.

In addition, the Office Action is incorrect in stating that Poplawksi *et al.* shows four optical receptacles, more than four optical receptacles, a unitary shared wall, and unitary construction. For example, the Office Action asserts that Figure 14 of Poplawski *et al.* shows four optical receptacles, despite the fact that Figure 14 shows just two transceivers, and, therefore, only 4 ports. However, as defined in the present application, the term “optical receptacle” ***refers to a device comprising at***

Serial Number: 09/941,832

least two ports." (See specification, p. 9, lines 1-2, emphasis added). Therefore, a device having four optical receptacles would have 8 ports, not the 4 ports shown in Figure 14 of Poplawski, *et al.*

Claims 2-4 and 7 depend directly from claim 1, and, accordingly, include all of the patentable features of claim 1 as well as other patentable features. Therefore, claims 2-4 and 7 are patentable over Poplawski, *et al.* for at least the reasons discussed above with respect to claim 1.

With respect to claim 29, claim 29, as currently presented, claims a multi-optical receptacle assembly comprising ***at least two optical receptacles*** and having a ***unibody construction***. However, the Office Action has cited no features or combination of features in Poplawski, *et al.* that teach or suggest a multi-optical receptacle assembly comprising at least two optical receptacles and having a unibody construction as claimed by claim 29. Furthermore, as discussed with Examiner Nasri contrary to what is stated in the Office Action at page 2, Poplawski, *et al.* does not teach or suggest a multi-optical receptacle assembly comprising at least two optical receptacles and having a unibody construction as claimed by claim 29, and, therefore, claim 29, is patentable over Poplawski, *et al.*

With respect to claims 30-32, claims 30-32 depend directly from claim 29, and, accordingly, include all of the patentable features of claim 29 as well as other patentable features. Therefore, claims 30-32 are patentable over Poplawski *et al.* for at least the reasons discussed above with respect to claim 29.

Furthermore, with respect to claims 1-4, 7 and 29-32, the rejection of claims 1-4, 7 and 29-32 under 35 U.S.C. § 102(e) as being anticipated by Poplawski, *et al.* is improper because the rejection under 35 U.S.C. § 102(e) set forth in the Final Action on its face did not and could not meet the requirements of § 102(e). The requirement of 35 U.S.C. § 102(e) is, as stated in the Manual of Patent Examining Procedure (MPEP), "**TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH**

Serial Number: 09/941,832

EVERY ELEMENT OF THE CLAIM.” (MPEP § 2131 (8th ed. 2001)) (emphasis in original); *see In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d (BNA) 1566 (Fed. Cir. 1990) (“For a prior art reference to anticipate in terms of 35 U.S.C. § 102(b), every element of the claimed invention must be identically shown in a single reference.”) (quoting *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677, 7 U.S.P.Q.2d (BNA) 1315, 1317 (Fed. Cir. 1988)).

The ground for rejection for claims 1-4, 7 and 29-32 set forth in the Office Action is as follows:

Poplawski et al discloses two optical receptacles for two respective transceivers (532,534) having a shared wall, connecting means (see figure 14), four optical receptacles (see figure 14), more than four optical receptacle (see figure 8), unitary shared wall, mounting means, unitary construction. (See Office Action, p. 2).

The only assertion in the above ground of rejection referencing any particular element of Poplawski, *et al.* as allegedly showing or describing an element of Applicants' claims is the reference to transceivers 532 and 534 having a shared wall, which, as pointed out in the discussion above, is an incorrect assertion. Therefore, the ground of rejection is a conclusory statement, and conclusory statements are insufficient to establish a *prima facie* case of rejection. (*See In re Lee*, 61 U.S.P.Q.2d 1430, 1435 (Fed. Cir. 2002)).

For the above reasons, the rejection of claims 1-4, 7 and 29-32 under 35 U.S.C. § 102(e) based on Poplawski, *et al.* is *prima facie* improper and should be withdrawn.

Claims 5 and 6 stand rejected under U.S.C. § 103(a) as being unpatentable over Poplawski, *et al.*. This rejection is respectfully traversed with respect to the claims as currently presented.

With respect to claims 5 and 6, claims 5 and 6 depend from claim 1, either

Serial Number: 09/941,832

directly or indirectly, and, accordingly, include all of the patentable features of claim 1 as well as other patentable features. Therefore, claims 5 and 6 are patentable over Poplawski, *et al.* for at least the reasons discussed above with respect to claim 1.

In addition, with respect to claims 1-4, 7 and 29-32, these claims have been rejected on the basis of facts within the personal knowledge of the Examiner. The ground for rejection of claims 1-4, 7 and 29-32, which is also part of the ground for rejecting claims 5 and 6, set forth in the Office Action is as follows:

Poplawski et al discloses two optical receptacles for two respective transceivers (532,534) having a shared wall, connecting means (see figure 14), four optical receptacles (see figure 14), more than four optical receptacle (see figure 8), unitary shared wall, mounting means, unitary construction. (See Office Action, p. 2).

The only assertion in the above grounds of rejection referencing any particular element of Poplawski, *et al.* as allegedly showing or describing an element of Applicants' claims is the reference to transceivers 532 and 534 having a shared wall, which, as pointed out in the discussion above, is an incorrect assertion. Therefore, the ground of rejection set forth in the Office Action is a conclusory statement unsupported by any cited reference and is based only on facts within the personal knowledge of the Examiner. Accordingly, under 37 C.F.R. § 1.104(d)(2), Applicants hereby request that the Examiner provide an affidavit supporting the Examiner's assertion used as a basis for this rejection.

Claims 1-4, 7 and 29-32 have been rejected under 35 U.S.C. § 102(b) as being anticipated by the admitted prior art figures 1 and 2. This rejection is respectfully traversed with respect to the claims as currently presented for the reasons discussed during the March 18, 2003 Examiner Interview.

With respect to claim 1, claim 1 claims a multi-optical receptacle assembly comprising at least two optical receptacles wherein there is a ***shared wall*** between adjacent optical receptacles (emphasis added). In contrast, as discussed with

Serial Number: 09/941,832

Examiner Nasri during the March 18, 2003 Examiner Interview, figures 1 and 2 and the related text describing figures 1 and 2 do not show or describe a shared wall between two optical receptacles. Contrary to what is stated in the Office Action at page 3, in figures 1 and 2 there is no shared wall between the transceivers, because there is space between transceivers as mounted in the mounting panel. For instance, there is an aperture control section 122 of chassis panel 104 between transceivers 106 and 108 and an aperture control section 222 of chassis panel 204 between transceivers 206 and 208, the “shared wall” claimed by claim 1 is either an abutting shared wall, such as the abutting shared wall 442 of FIG. 4 that consists of two abutting walls 444 and 446 or a unitary shared wall, such as the shared wall 542 of Fig. 5. (See application, p. 7 for a definition of the term “shared wall”). Therefore, figures 1 and 2 do not teach or suggest using a shared wall between adjacent optical receptacles as claimed by claim 1, and, therefore, claim 1 is patentable over the admitted prior art shown in figures 1 and 2.

In addition, the Office Action is incorrect in stating that the admitted prior art figures 1 and 2 show four optical receptacles, more than four optical receptacles, a unitary shared wall, and unitary construction. For example, the Office Action asserts that Figure admitted prior art figures 1 and 2 each show four optical receptacles, despite the fact that figures 1 and 2 each shows only two transceivers, and, therefore, only 4 ports. However, as defined in the present application, the term “optical receptacle” **“refers to a device comprising at least two ports.”** (See specification, p. 9, lines 1-2, emphasis added). Therefore, a device having four optical receptacles would have 8 ports, not the 4 ports shown in figures 1 and 2.

Claims 2-4 and 7 depend directly from claim 1, and, accordingly, include all of the patentable features of claim 1 as well as other patentable features. Therefore, claims 2-4 and 7 are patentable over admitted prior art figures 1 and 2 for at least the reasons discussed above with respect to claim 1.

With respect to claim 29, claim 29, as currently presented, claims a

Serial Number: 09/941,832

multi-optical receptacle assembly comprising *at least two optical receptacles* and having a *unibody construction*. However, the Office Action has cited no features or combination of features in admitted prior art figures 1 and 2 and the text describing figures 1 and 2 that teach or suggest a multi-optical receptacle assembly comprising at least two optical receptacles and having a unibody construction as claimed by claim 29. Furthermore, as discussed with Examiner Nasri contrary to what is stated in the Office Action at page 3, figures 1 and 2 do not teach or suggest a multi-optical receptacle assembly comprising at least two optical receptacles and having a unibody construction as claimed by claim 29, and, therefore, claim 29, is patentable over admitted prior art figures 1 and 2.

With respect to claims 30-32, claims 30-32 depend directly from claim 29, and, accordingly, include all of the patentable features of claim 29 as well as other patentable features. Therefore, claims 30-32 are patentable over admitted prior art figures 1 and 2 for at least the reasons discussed above with respect to claim 29.

Furthermore, with respect to claims 1-4, 7 and 29-32, the rejection of claims 1-4, 7 and 29-32 under 35 U.S.C. § 102(b) as being anticipated by admitted prior art figures 1 and 2 is improper because the rejection under 35 U.S.C. § 102(b) set forth in the Final Action on its face did not and could not meet the requirements of § 102(b). The requirement of 35 U.S.C. § 102(b) is, as stated in the Manual of Patent Examining Procedure (MPEP), “**TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM.**” (MPEP § 2131 (8th ed. 2001)) (emphasis in original); *see In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d (BNA) 1566 (Fed. Cir. 1990) (“For a prior art reference to anticipate in terms of 35 U.S.C. § 102(b), every element of the claimed invention must be identically shown in a single reference.”) (quoting *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677, 7 U.S.P.Q.2d (BNA) 1315, 1317 (Fed. Cir. 1988)).

The ground for rejection for claims 1-4, 7 and 29-32 set forth in the Office Action is as follows:

Serial Number: 09/941,832

The admitted prior art figures 1 and 2 discloses two optical receptacles for two respective transceivers having a shared wall, connecting means, four optical receptacles, more than four optical receptacle, unitary shared wall, mounting means, unitary (unibody) construction. (See Office Action, p. 3).

The no assertion in the above ground of rejection referencing any particular element of admitted prior art figures 1 and 2 as allegedly showing or describing an element of Applicants' claims. Therefore, the ground of rejection is a conclusory statement, and conclusory statements are insufficient to establish a *prima facie* case of rejection. (See *In re Lee*, 61 U.S.P.Q.2d 1430, 1435 (Fed. Cir. 2002)).

For the above reasons, the rejection of claims 1-4, 7 and 29-32 under 35 U.S.C. § 102(b) based on admitted prior art figures 1 and 2 is *prima facie* improper and should be withdrawn.

Claims 5 and 6 stand rejected under U.S.C. § 103(a) as being unpatentable over admitted prior art figures 1 and 2. This rejection is respectfully traversed with respect to the claims as currently presented for the reasons discussed during the March 18, 2003 Examiner Interview.

With respect to claims 5 and 6, claims 5 and 6 depend from claim 1, either directly or indirectly, and, accordingly, include all of the patentable features of claim 1 as well as other patentable features. Therefore, claims 5 and 6 are patentable over admitted prior art figures 1 and 2 for at least the reasons discussed above with respect to claim 1.

In addition, with respect to claims 1-4, 7 and 29-32, these claims have been rejected on the basis of facts within the personal knowledge of the Examiner. The ground for rejection of claims 1-4, 7 and 29-32, which is also part of the ground for rejecting claims 5 and 6, set forth in the Office Action is as follows:

Serial Number: 09/941,832

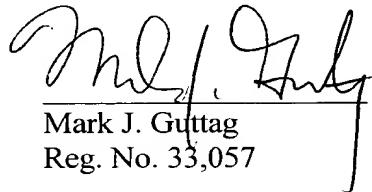
The admitted prior art figures 1 and 2 discloses two optical receptacles for two respective transceivers having a shared wall, connecting means, four optical receptacles, more than four optical receptacle, unitary shared wall, mounting means, unitary (unibody) construction. (See Office Action, p. 3).

The is no assertion in the above grounds of rejection referencing any particular element of figures 1 and 2 as allegedly showing or describing an element of Applicants' claims. Therefore, the ground of rejection set forth in the Office Action is a conclusory statement unsupported by any cited reference and is based only on facts within the personal knowledge of the Examiner. Accordingly, under 37 C.F.R. § 1.104(d)(2), Applicants hereby request that the Examiner provide an affidavit supporting the Examiner's assertion used as a basis for this rejection.

If the Examiner has any questions or concerns regarding the present response, the Examiner is invited to contact Mark J. Guttag at 703-591-2664.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance, and favorable action is respectfully solicited.

Respectfully submitted,



Mark J. Guttag
Reg. No. 33,057

JAGTIANI + GUTTAG
Democracy Square Business Center
10379-B Democracy Lane
Fairfax, Virginia 22030
(703) 591-2664

March 31, 2003